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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,409	09/10/2003	Steven P. Hergott	P06668US0-169F	4641

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DES MOINES, IA 50309-2350

EXAMINER
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PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/659,409

Applicant(s)

HERGOTT ET AL.

Examiner

David J Parsley

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12.17.03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **Detailed Action**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,577,370 to Kollross or U.S. Patent No. 5,085,036 to Evans et al.

Referring to claims 1-2, Kollross and Evans disclose a method and apparatus comprising, a hollow meat stuffing tube – at 104 of Kollross and – see figures 1-4 of Evans, on the machine having a first end and a discharge end for extruding emulsion into a natural casing on an outer surface of the stuffing tube, and a textured belt assembly – at 44, 56, 58 of Kollross and – at 100-108 of Evans, mounted adjacent and parallel to the stuffing tube near the discharge end having a continuous belt – at 44 of Kollross and – at 100,102 of Evans, with a plurality of grooves – at 56,58 of Kollross and – at 108 of Evans, that loops around a pair of rollers – see figures 4a-4e of Kollross and figure 4 of Evans, wherein the textured belt assembly longitudinally moves the casing about the stuffing tube and towards the discharge end – see for example figures 1-4 of Kollross and figures 1-4 of Evans.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Evans. Evans discloses the rollers are mounted on fixed axles – see for example figure 4.

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Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Kollross. Kollross discloses one of the rollers is mounted on a fixed axis – at 50, such that the textured belt – at 44 is free to pivot about fixed axle – see figures 4a-4e where the belt pivots about the roller – at 46 and axle – at 50.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kollross as applied to claim 2 above, and further in view of Evans. Kollross does not disclose both axles are fixed. Evans does disclose both axles are fixed – see for example figure 4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kollross and add the axles being fixed of Evans, so as to allow for the device to be securely held in place during use.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to claim 2 above, and further in view of Kollross. Evans does not disclose only one axle is fixed. Kollross does disclose that only one axle is fixed – at 50 – see figures 4a-4e and column 5 lines 34-52. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Evans and add the only one axle being fixed of Kollross, so as to allow for the belt to be quickly and easily movable about the rollers.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to sausage stuffing devices in general:

U.S. Pat. No. 2,685,770 to Conti – shows belt assembly  
U.S. Pat. No. 3,936,909 to Carter – shows belt assembly  
U.S. Pat. No. 3,942,221 to Sipusic et al.- shows belt assembly  
U.S. Pat. No. 4,417,368 to Washburn – shows belt assembly  
U.S. Pat. No. 4,563,792 to Niedecker – shows belt assembly  
U.S. Pat. No. 4,619,018 to Niedecker – shows roller assembly  
U.S. Pat. No. 4,625,362 to Kollross et al. – shows roller assembly  
U.S. Pat. No. 4,649,601 to Kollross – shows roller assemblies  
U.S. Pat. No. 5,088,956 to Kollross – shows roller assembly  
U.S. Pat. No. 5,145,449 to Kazaitis et al. – shows roller assembly  
U.S. Pat. No. 5,203,760 to Chen et al.- shows belt assembly  
U.S. Pat. No. 6,146,261 to Bienert et al. – shows belt assembly  
EP Pat. No. 0068578 – shows roller assembly  
DE Pat. No. 3106074 – shows roller assembly  
DE Pat. No. 3244372 – shows belt assembly  
DE Pat. No. 4028480 – shows roller assembly

4. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.

A handwritten signature in black ink, appearing to read "Peter M. Poon". The signature is stylized with a large "P" and a long horizontal stroke at the end.

Peter M. Poon  
Supervisory Patent Examiner  
Technology Center 3600